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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,089	07/30/2003	Paige Fortner	FORP121050	2026

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EXAMINER

HALE, GLORIA M

ART UNIT	PAPER NUMBER
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3765

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/631,089

Applicant(s)

FORTNER, PAIGE

Examiner

Gloria Hale

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11-13-06 RCE and Amendment.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 15-36 is/are pending in the application.
- 4a) Of the above claim(s) 15-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 27-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-12 and 15-36 remain in the application. Claims 13,14,37 and 38 have been cancelled. Claims 15-26 have been withdrawn but have not been formally cancelled. Claims 15-26 should be cancelled.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1- 12 and 27-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It regard to claim 1 it is not clear as to what the recitation "to be applied to the garment pad by a user" encompasses in that it is written as a method step limitation in a product claim. It is not clear if applicant is just claiming an amount of an adhesive such as in a container to be applied to the pad. The adhesive has not been positively claimed as being attached to the pad. Therefore, the claim includes a pad with a bottle of glue as broadly claimed. It is also not clear as to where in the specification the support has been provided for what is now being claimed. There are many embodiment in the specification ad it is not clear as to where the support for this embodiment is found. It is not clear as to what the term "Reusable" encompasses. The specification claimed the pad as being permanently attached therefore it is not clear as to how I t is reusable.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 27 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original specification does not disclose the body as being reusable since it has been disclosed as being permanently attached to the garment. Therefore it is not clear as to how it is reusable.

Claim Objections

Claim 2 is objected to because of the following informalities: In claim 2, line 2 after "surface" insert - - and - . Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,27,28 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Sneider (US 4,674,510).

Sneider discloses a garment pad kit with a garment pad that is three dimensionally dome shaped and an adhesive to couple the outer adhering surface to the garment.

The recitation "to be applied to the garment pad by the user" is a method step limitation

that does not positively claim the adhesive connection to the garment pad. It is not clear as to how the adhesive is being provided. Therefore, Sneider provides the pad 14 with the adhesive 18 as broadly claimed in claim 1 as seen in figures 1 and 4A and col. 3, line 44-col. 4, line 20). In regard to claim 27 Sneider discloses the reusable body 64 with an inner surface 10 and an outer surface 14 with an adhering surface with the body being three dimensionally dome shaped to correspond to a breast region and an adhesive 18 disposed on the outer adhering surface as claimed. (See Sneider col. 3, line 44-col. 4, line 20 and figures 1-4A). The adhesive is pressure sensitive and is a bra pad as claimed in claim 36.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 5, 29 and 30 rejected under 35 U.S.C. 103(a) as being unpatentable over Sneider in view of Kenyon (US 5,569,345)

In regard to claims 3, 4, 5, 29 and 30 Sneider discloses the garment pad substantially as claimed except for the temperature sensitive adhesive. Kenyon discloses the use of a temperature and pressure sensitive adhesive that is functional upon heating and ironing the adhesive with pressure. Accordingly it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pad kit of Sneider to include a temperature sensitive adhesive as disclosed by Kenyon

to provide a better adhesion of the pad onto the garment for a permanent attachment. Such adhesives are well known and the mere substitution of one type of adhesive for another would have been an obvious modification to one of ordinary skill in the art. The Kenyon temperature sensitive iron adhesive includes a bonding fabric as claimed. The bonding layer of Kenyon is the support layer as broadly claimed. (See Kenyon, col. 3, lines 15-34).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sneider in view of common liquid adhesive.

Sneider discloses the pad with the pressure sensitive adhesive. However, Sneider does not include the use of a liquid adhesive to permanently attach the pad to the garment. IT is well known to attach garment appliqués and pads onto garments with a liquid adhesive such as a general adhesive or fabric adhesive. Accordingly it would have been obvious to one having ordinary skill in the art to use a liquid adhesive in place of the pressure sensitive adhesive or in addition to the pressure sensitive adhesive to permanently adhere the pad onto the garment since such adhesive of items onto garment with liquid adhesive is well known.

Claim 10 is rejected under 35 USC 103 (a) as being unpatentable over Sneider in view of well known double sided tape.

Sneider discloses the pad with the pressure sensitive adhesive. However, Sneider does not include the use of a double sided tape to permanently attach the pad to the garment. IT is well known to attach garment appliqués and pads onto garments with a double sided tape such as a double sided clear tape used in gift wrapping. Accordingly

Art Unit: 3765

it would have been obvious to one having ordinary skill in the art to use a well known double sided tape in place of or in addition to the pressure sensitive adhesive to permanently adhere the pad onto the garment since such adhesive of items onto garment with liquid adhesive is well known.

Claims 6-9,11,12 and 31-35. are objected to. None of the cited references, alone or in combination disclose the bonding fabric with the relief cuts,gaps or apertures; the double sided tape with the arcuate shape and the support layer including the plurality of panels.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 571-272-4984. The examiner can normally be reached on Tues.-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3765

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gloria Hale
Primary Examiner
Art Unit 3765
